

SENATE AMENDMENTS

2nd Printing

By: Parker

H.B. No. 2978

A BILL TO BE ENTITLED

AN ACT

relating to service of citation in connection with an expedited
judicial foreclosure proceeding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 17, Civil Practice and
Remedies Code, is amended by adding Section 17.031 to read as
follows:

Sec. 17.031. EXPEDITED FORECLOSURE PROCEEDINGS. For a
power of sale exercised by the filing of an application for an
expedited court order allowing the foreclosure of a contract lien
under the Texas Rules of Civil Procedure, a citation issued to a
person who is a respondent in the expedited order proceeding is
considered complete when service is accomplished in accordance with
Rule 736, Texas Rules of Civil Procedure, or in the manner provided
for petitions under the Texas Rules of Civil Procedure.

SECTION 2. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013

Leta Stovall
Secretary of the Senate

By: *Kenn Paxton*

H.B. No. 2978

Substitute the following for H.B. No. 2978

By: *Jose Rodriguez*

C.S. H.B. No. 2978

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3 judicial foreclosure proceeding.

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5 SECTION 1. Subchapter B, Chapter 17, Civil Practice and
6 Remedies Code, is amended by adding Section 17.031 to read as
7 follows:

8 Sec. 17.031. EXPEDITED FORECLOSURE PROCEEDINGS. For a
9 power of sale exercised by the filing of an application for an
10 expedited court order allowing the foreclosure of a contract lien
11 under the Texas Rules of Civil Procedure 736, service of citation
12 shall be completed in accordance with Rule 736 or 106, Texas Rules
13 of Civil Procedure, or in any other manner provided for petitions
14 under the Texas Rules of Civil Procedure.

15 SECTION 2. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2013.

ADOPTED

Roger W. N.

FLOOR AMENDMENT NO. 1

MAY 22 2013

BY:

Atty. Gen.
Secretary of the Senate

1 Amend C.S.H.B. No. 2978 (senate committee printing) by
2 adding the following appropriately numbered SECTIONS to the bill
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter A, Chapter 22, Government Code, is
5 amended by adding Section 22.018 to read as follows:

6 Sec. 22.018. PROMULGATION OF FORMS FOR CERTAIN EXPEDITED
7 FORECLOSURE PROCEEDINGS. (a) The supreme court shall promulgate
8 the following forms for use in expedited foreclosure proceedings
9 described by Section 50(r), Article XVI, Texas Constitution:

10 (1) a form for application for an expedited foreclosure
11 proceeding;

12 (2) a form for a supporting affidavit; and

13 (3) a form for any court-required citation.

14 SECTION _____. Not later than March 1, 2014, The Texas
15 Supreme Court shall promulgate the form required by section
16 22.018, Government Code, as added by this Act.

17 SECTION _____. Subchapter B, Chapter 154, Civil Practice and
18 Remedies Code, is amended by adding Section 154.028 to read as
19 follows:

20 Sec. 154.028. MEDIATION FOLLOWING APPLICATION FOR
21 EXPEDITED FORECLOSURE. (a) A citation for expedited foreclosure
22 may be served in the manner provided by Rule 106 or 736, Texas
23 Rules of Civil Procedure. Following the filing of a response to
24 an application for an expedited foreclosure proceeding under
25 Rule 736.5, Texas Rules of Civil Procedure, a court may, in the
26 court's discretion, conduct a hearing to determine whether to
27 order mediation. A court may not order mediation without
28 conducting a hearing. The petitioner or respondent may request
29 a hearing to determine whether mediation is necessary or whether

1 an application is defective.

2 (b) A hearing under Subsection (a) may not be conducted
3 before the expiration of the respondent's deadline to file a
4 response.

5 (c) Subject to Subsection (d), a hearing under Subsection
6 (a) may be conducted by telephone.

7 (d) Not later than the 10th day before the date of a
8 hearing under Subsection (a), the court shall send notice of the
9 hearing to the parties concerning whether the hearing will be
10 conducted by telephone and, if applicable, instructions for
11 contacting the court and attending the hearing by telephone.

12 (e) At a hearing under Subsection (a), the court must
13 consider any objections to the referral of the case to
14 mediation.

15 (f) If the court orders the case to mediation, the
16 mediation must be conducted before the expiration of any
17 deadline imposed by Rule 736, Texas Rules of Civil Procedure.

18 (g) If the parties to a case that has been ordered to
19 mediation are unable to agree on the appointment of a mediator,
20 the court may appoint a mediator. If a mediator is appointed by
21 the court, the court shall provide all parties with the name of
22 the chosen mediator at the mediation hearing if the parties are
23 unable to agree to a mediator at that hearing.

24 (h) A mediator's fee shall be divided equally between the
25 parties.

26 (i) The parties may agree to waive the mediation process.

27 (j) The court may not conduct a hearing under this section
28 if the applicant has served the citation in compliance with Rule
29 106, Texas Rules of Civil Procedure, and a response to the
30 application has not been filed before the deadline provided by
31 Rule 736, Texas Rules of Civil Procedure.

1 (k) If a respondent fails to attend a mediation hearing
2 after notice in accordance with Subsection (d), the court:

3 (1) may not order mediation; and

4 (2) shall grant or deny the petitioner's motion for
5 default order under Rule 736.7, Texas Rules of Civil Procedure.

6 (l) If a respondent attends a hearing and mediation is
7 ordered, any mediation must take place not later than the 29th
8 day after the date the petitioner filed a motion for default
9 order.

10 (m) Notwithstanding Section 22.004, Government Code, the
11 supreme court may not amend or adopt rules in conflict with this
12 section.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2978 by Parker (Relating to service of citation in connection with an expedited judicial foreclosure proceeding.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 20, 2013

TO: Honorable Royce West, Chair, Senate Committee on Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2978 by Parker (Relating to service of citation in connection with an expedited judicial foreclosure proceeding.), **Committee Report 2nd House, Substituted**

<p>No fiscal implication to the State is anticipated.</p>
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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable Royce West, Chair, Senate Committee on Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2978 by Parker (Relating to service of citation in connection with an expedited judicial foreclosure proceeding.), **As Engrossed**

<p>No fiscal implication to the State is anticipated.</p>
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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 17, 2013

TO: Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2978 by Parker (Relating to service of citation in connection with an expedited judicial foreclosure proceeding.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 7, 2013

TO: Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2978 by Parker (Relating to notice of sale in connection with an expedited judicial foreclosure of a contract lien on real property.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the property code relating to an expedited judicial foreclosure of a contract lien on real property, so that citation issued to the debtor who is a respondent in the expedited order satisfies the requirement for notice of sale and is considered completed when service of process is done properly.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, CL, SD, SJS